FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

APPEAL FROM ORDER NO.753 OF 2004.

Office Notes,Office Memoranda of Coram, appearnaces,Courts's orders or directions and Registrar's orders.	:	Court's or Judge's orders

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Shri G.S. Hegde for the appellant.

Shri V.A. Thorat wisth Y.M. Chaudhari for

the respondents.

CORAM: V.C.DAGA,J.

DATED: 26-08-2004.

P.C.:

. During the course of hearing , learned Counsel for the respondents has filed a purshis dated 26.8.2004 contents of which are self explanatory. Shri Hegde, learned Counsel for the appellant raised an objection to the last sentence appearing in the purshis wherein respondent has stated that the respondent shall continue to maintain the said disputed portion of the property as open space. In his submission, this sentence is suggestive of the factum of possession. In this view of

the objection of Shri Hegde, it is clarified that notwithstanding the said statement, it would be open for the appellant to demonstrate that they are in possession, at the same time, it would also be open to the respondents to assert their possession. The trial Court shall be free to decide all issues including claim of the rival parties with respect to the possession of the suit property.

2. With the above clarification, appeal is allowed to be withdrawn with direction to the trial Court to proceed to hear Notice of Motion and decide the same as expeditiously as possible, at any rate, within 8 weeks from the date of receipt of copy of this order.

3. All rival contentions are kept open. This order is passed without prejudice to rights of either of parties.

4. Parties to act on copy of this order duly authenticated by the Court Associate./.PA.